

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

CARLOS M. BORGES, #75430-004

PETITIONER

VERSUS

CIVIL ACTION NO. 5:12-cv-92-DCB-RHW

WARDEN A. LONGLEY, FCC Yazoo City

RESPONDENT

MEMORANDUM OPINION AND ORDER

This cause is before the Court, *sua sponte*, for consideration of dismissal. Petitioner, Carlos M. Borges, an inmate at the Federal Correctional Complex-Yazoo City, Mississippi, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 on July 9, 2012.¹ Upon review of the petition [1], this Court has reached the following conclusion.

Petitioner files the instant petition requesting habeas relief arising out of a state court conviction he received in Florida. Pet. [1] p. 1. On April 30, 2007, the Circuit Court of the Eleventh Judicial Circuit for Miami Dade County, Florida, sentenced Petitioner to a 10-year term of imprisonment for illegal drug trafficking and conspiracy to traffic illegal drugs. *Id.* As his sole ground for habeas relief, Petitioner states that the "state court [of Florida] is denying jail credits for time served." *Id.* at p. 6.

A petitioner may file a writ of habeas corpus pursuant to 28 U.S.C. § 2241 which attacks the manner in which his sentence is being executed in the district court with jurisdiction over his custodian. *United States v. Cleto*, 956 F.2d 83, 84 (5th Cir. 1992). In the instant case, Petitioner is not challenging his federal sentence or the execution of his federal sentence and there is no

¹According to the Petitioner, he was convicted and sentenced by the United States District Court for the Southern District of Florida on July 7, 2006, and received a 160-month sentence. Pet. [1] p. 8. This Court finds that the Petitioner is presently incarcerated at the Federal Correctional Complex, Yazoo City, Mississippi, serving his federal sentence.

allegation that his claim has an impact on the fact or duration of his federal confinement. The Petitioner is clearly attacking the decision by the Florida state courts to deny him certain credits to the 10-year term of imprisonment imposed by the state of Florida. Because the Petitioner is not challenging the execution of his federal sentence, this Court lacks subject matter jurisdiction to consider the instant petition for habeas relief.

For the reasons set forth above, the instant petition for habeas relief will be dismissed with prejudice.

SO ORDERED, this the 29th day of October, 2012.

s/David Bramlette

UNITED STATES DISTRICT JUDGE